

ENTERED

July 21, 2021

Nathan Ochsner, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

DISH NETWORK L.L.C.,

Plaintiff,

v.

YAHYA ALGHAFIR *et al.*,

Defendants.

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Civil Action No. H-20-1678

ORDER

Pending before the Court is Plaintiff DISH Network L.L.C.’s Combined Motion for Entry of Default and Default Judgment Against Defendants (Document No. 31). On May 13, 2020, Plaintiff Dish Network L.L.C. (“Dish”) commenced this suit. On June 10, 2020, Dish performed substituted service on Defendant Yahya Alghafir and Defendant Texas Communication & Technology Co., Ltd.¹ On October 21, 2020, Dish performed alternative service as to Defendant Shenzhen Jiema Technology Co., Ltd. (“Jiema”) and Defendant Shenzhen Street Cat Technology Co., Ltd.² Jiema timely responded to the complaint by moving to dismiss and timely

¹ See *Return of Service of Summons as to Yahya Alghafir*, Document No. 9; *Return of Service of Summons as to Texas Communications & Technology Co., Ltd.*, Document No. 10.

² See *Return of Service of Summons as to Shenzhen Jiema Technology Co. Ltd. and Shenzhen Street Cat Technology Co., Ltd.*, Document No. 21.

objected to the motion for entry of default.³ To date, Jiemaos is the only Defendant to respond to this suit. “When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party’s default.” Fed. R. Civ. P. 55(a). Here, Jiemaos has repeatedly sought to defend itself. The Court thus finds the motion for entry of default should be denied as to Jiemaos and denied without prejudice as to the other Defendants.⁴ Accordingly, the Court hereby

ORDERS that Plaintiff DISH Network L.L.C.’s Combined Motion for Entry of Default and Default Judgment Against Defendants (Document No. 31) is **DENIED** as to Shenzhen Jiemaos Technology Co., Ltd. The Court further

ORDERS that Plaintiff DISH Network L.L.C.’s Combined Motion for Entry of Default and Default Judgment Against Defendants (Document No. 31) is

³ See *Defendant Shenzhen Jiemaos Technology Co., Ltd.’s Motion to Dismiss with Prejudice*, Document No. 22; *Defendant Shenzhen Jiemaos Technology Co., Ltd.’s Opposition to Plaintiff Dish Network L.L.C.’s Combined Motion for Entry of Default and Default Judgment Against Defendants and a Motion to Dismiss the Case due to the Expiration of the Statute of Limitations*, Document No. 35. On May 25, 2021, the Court denied the first motion to dismiss. *Order*, Document No. 29.

⁴ The Court notes the relief sought by Dish in their motion for entry of default and default judgment is a finding of joint and several liability as to all Defendants for any statutory damages awarded. The entry of default judgment against one, but not all, Defendants is inappropriate when joint and several liability is at issue. See *Underwriters at Lloyds, Syndicate 4242 v. Turtle Creek P’ship, Ltd.*, Civil Action No. 4:08-cv-3044, 2010 WL 5583118, at *2–*3 (S.D. Tex. Feb. 26, 2010) (Ellison, J.); see also 10A Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, *Federal Practice and Procedure* § 2690 (4th ed. 2021).

DENIED WITHOUT PREJUDICE as to Yahya Alghafir, Texas Communication & Technology LLC, and Shenzhen Street Cat Technology Co., Ltd.

SIGNED at Houston, Texas, on this 21 day of July, 2021.

A handwritten signature in black ink, appearing to read "David Hittner", written over a horizontal line.

DAVID HITTNER
United States District Judge